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8 UNITED STATES DISTRICT COURT
9
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 United States of America,

12 Plaintiff,

13 v.

14 Christopher K. Kamon,

15 Defendant.
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CASE NO.: 2:22-mj-04385

**DEFENDANT CHRISTOPHER K.
KAMON'S REPLY IN SUPPORT OF
MOTION TO REVOKE DETENTION
ORDER**

Date: January 9, 2023
Time: 1:30 P.M.
Judge: Hon. Dale S. Fischer
Courtroom: 7D

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

Whether pre-trial release should be denied requires a two-part inquiry: (1) whether the defendant poses a danger to the community or is a flight risk, and (2) if so, what conditions of release may mitigate the concern. In its Opposition (ECF No. 35), the Government argues only about whether Mr. Kamon is a flight risk. The Government fatally does not contest the cornerstones of the proposed conditions of Mr. Kamon's pre-trial release: (a) passport surrender; (b) movement restrictions with electronic monitoring; and (c) mandatory quartering with his aunt and uncle, who are pledging their family home of four decades.

Indeed, despite this Court's consideration of the Motion (ECF No. 29) being *de novo*, the Government leans on the District of Maryland Magistrate Judge's conclusion that Mr. Kamon presents a flight risk—but ignores the Government's admission and the Magistrate Judge's acknowledgment at that initial hearing that release could be appropriate if there were a reliable third-party custodian, which did not exist in Maryland. That issue is now resolved, and the Government does not and cannot challenge that Mr. Kamon's aunt and uncle are trustworthy third-party custodians.

The Motion should therefore be granted and Mr. Kamon released on the conditions proposed.

II. Argument

A. Mr. Kamon Is Not A Flight Risk

The Government focuses on a number of disparate events and the interview of a motivated witness to manufacture an image of Mr. Kamon's conduct that is not supported by a critical examination of the facts. Tellingly, none of the purported conduct the Government highlights resulted in Mr. Kamon fleeing from the Government. He was successfully arrested re-entering the United States in his own name. His whereabouts and activity were neither hidden nor disguised. Mr. Kamon

1 openly and transparently used his real name to travel, transfer money, purchase
 2 property in The Bahamas, seek residency in The Bahamas, and even notify the U.S.
 3 Post Office to forward his mail in California to his sister's house in Maryland.¹ His
 4 family and friends were aware of his move and were even planning to visit him in The
 5 Bahamas over the holidays.² (Mot. at 3.) And, during this time period, his counsel
 6 was also in contact with Government attorneys on his behalf.³

7 **1. The Government's Untested Positions About The Underlying**
 8 **Merits Do Not Justify Denying Pre-Trial Release**

9 The Government's flight-risk argument centers on its unproven belief about the
 10 underlying allegations. For example, the Government repeats its untested and
 11 unproven allegation that Mr. Kamon took \$10 million from Girardi Keese. (Opp. at
 12 5.) Of course, the Government always proclaims that it has an overwhelming case at
 13 the pre-trial phase, when its allegations are untested. At this point in this case, there
 14 is merely a Government complaint and the matter has apparently not even been put to
 15 a grand jury—much less a trial jury where witnesses are confronted and evidence
 16 countered. That is part of the reason why, as even the Government concedes (Opp. at
 17 6), the law recognizes that the purported strength of the evidence is the least important
 18 of the pre-trial release factors. *United States v. Motamedi*, 767 F.2d 1403, 1408 (9th
 19 Cir. 1985).

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 21 ¹The Government alleges that Mr. Kamon attempted to purchase a home in The
 22 Bahamas in an associate's name. (Opp. at 9.) Despite being challenged to do so, the
 23 Government notably does not supply the evidentiary basis for this assertion.

² The Government has not and cannot suggest these individuals—several of whom are
 affirmatively reliable and trustworthy as evidenced by their security clearances—
 would ever conceal Mr. Kamon's whereabouts.

³ Around the time that Mr. Kamon was arrested in Maryland, a plaintiff was apparently
 attempting to serve a civil complaint on Mr. Kamon. Plaintiff's counsel was informed
 that undersigned counsel does not represent Mr. Kamon in any civil litigation.
 Plaintiff's counsel then served a subpoena on undersigned counsel's law firm seeking
 documents reflecting Mr. Kamon's last known contact information. Because the
 information supplied in response to that subpoena did not include Mr. Kamon's
 address in The Bahamas, the Government insinuates that Mr. Kamon was attempting
 to hide from even his counsel or keep his whereabouts unknown to them. That is
 wrong. The undersigned counsel was always able to reach Mr. Kamon via phone or
 email throughout this entire period.

1 In an attempt to bolster its self-determinations of the underlying merits, the
 2 Government in a footnote represents that it “voluntarily provided defendant with
 3 substantial discovery related to the instant allegations,” including “concrete evidence
 4 of [Mr. Kamon’s] culpability.” (Opp. at 5.) This is overstated. Again, the
 5 Government always maintains that it has “concrete evidence of culpability.” But
 6 Mr. Kamon and undersigned counsel disagree with the Government’s analysis, and
 7 this is not the forum to reconcile, much less blindly accept, the Government’s views.

8 Moreover, the Government improperly and prejudicially references
 9 Mr. Kamon’s alleged involvement in other activities at Girardi Keese, which are
 10 apparently part of another investigation according to the Opposition. It is unclear
 11 whether those allegations are attendant to a grand jury investigation out of this District.
 12 Regardless, those matters are not alleged in the Complaint against Mr. Kamon that
 13 were submitted as the basis for his arrest. It is elementary, at least in this nation, that
 14 the Government cannot detain us based on unstated allegations.

15 **2. Mr. Kamon Was Not In A “Rush to Flee”**

16 The Government asserts that Mr. Kamon was in a “rush to flee” beginning in
 17 August 2021 because of unfavorable publicity about Girardi Keese. (*Id.* at 6.) What
 18 the Government ignores, however, is that due to Girardi Keese’s demise, Mr. Kamon
 19 lost his employment of over twenty years. His economic status changed, and given
 20 the circumstances, there is nothing remarkable about making changes to address that
 21 situation. Tellingly, he did not sell his primary residence and relocate to Maryland
 22 (Mot. at 3) until almost two years after the issues relating to the firm arose and the
 23 matter had been referred to prosecutors by a U.S. District Court in Chicago.⁴ Waiting
 24 around for almost two years after news of the criminal referral and engaging directly
 25 with prosecutors during that period (*id.* at 2) is hardly indicative of any “rush.” Rather,

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 27 ⁴ Debra Cassens Weiss, Judge Freezes Assets of Winning ‘Erin Brockovich’ Law Firm
 28 After Suit Alleges Stolen Settlement Funds, ABA Journal (Dec. 14, 2020, 1:51 PM),
<https://www.abajournal.com/news/article/judge-freezes-assets-of-winning-erin-brockovich-law-firm-after-suit-alleges-stolen-settlement-funds>

1 Mr. Kamon's actions are consistent with someone who was simply making a fresh
2 start on his own timeline. (*Id.* at 2-3.)

3 And again, Mr. Kamon's move from California to The Bahamas was not an
4 attempt to "flee." The Bahamas is a small island nation with an extradition treaty with
5 the United States. (Mot. at 9.) The Government argues that The Bahamas could have
6 been a "launch pad" for Mr. Kamon to travel elsewhere. (Opp. at 11.) But this makes
7 no sense. Not only was Mr. Kamon actively seeking residency status, he purchased a
8 home in The Bahamas instead of renting. Both of those facts undercut the
9 Government's baseless supposition that his move to The Bahamas was some sort of
10 intermediate step.

11 **3. Cell Phones And Web-Based Messaging Are Not Evasion**

12 The Government argues that having multiple phones is indicative of Mr. Kamon
13 being "suspicious of law enforcement investigations." (Opp. at 10.) But it provides
14 no explanation as to how the Government could not track the use of those devices or
15 how having these particular devices somehow means evasion. The Government just
16 declares it, notwithstanding Mr. Kamon's valid reasons for having the phones. (Mot.
17 at 11.)

18 Likewise, the use of Signal as a preferred means of communicating does not
19 suggest an intent to avoid detection by law enforcement. Signal is a widely used
20 messaging platform, freely available on Apple's App Store.⁵ It is commonly used to
21 avoid data fees in overseas communications. (Mot. at 8-9.) The Government does not
22 dispute the legitimacy of Signal or establish that Mr. Kamon was using Signal to
23 conceal communications from the authorities. It merely answers with the speculation
24 that Mr. Kamon would not want to eliminate data fees by using WiFi because he
25 previously spent large sums of money on other items. (Opp. at 10.)

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28 ⁵ App Store Preview, <https://apps.apple.com/us/app/signal-private-messenger/id874139669> (last visited Jan. 5, 2023).

1 **4. Mr. Kamon's Name Is Directly Connected To All Transfers**

2 The Government also makes reference to Mr. Kamon's monetary transfers to
3 foreign accounts. (Opp. at 8-9.) Faced with the reality that Mr. Kamon is directly
4 identified on every transaction it cites, the Government still confusingly maintains that
5 he was trying to hide the transactions. (*Id.*) This makes no sense. His name is
6 associated with each of the transactions and there is no evidence he attempted to
7 structure the transactions to avoid detection or reporting. Indeed, from subpoenaed
8 records, the Government easily identified each of these transactions—because they are
9 from his accounts and use his name. The Government also fails to explain how this
10 relates to whether Mr. Kamon is a flight risk or would comply with the terms of pre-
11 trial release.

12 **5. Mr. Kamon Cooperated With The Bankruptcy Trustee**

13 Setting aside the extraordinary suggestion that the exercise of Fifth Amendment
14 rights is evidence of flight risk (Opp. at 7), the Government cannot credibly assert that
15 Mr. Kamon did not cooperate with the bankruptcy trustee when he reached an
16 agreement for a payment and voluntarily produced documents. (Mot. at 2.)

17 **6. Mr. Kamon Used His Sister's Maryland Home As His Home**
18 **Base While In The Process Of Moving To The Bahamas**

19 Despite clarification in the form of a declaration from his sister, the Government
20 continues to assign mischief to confusion from out-of-context comments to Pretrial
21 Services in Maryland about Mr. Kamon's residency at the time of his arrest and fails
22 to appreciate the commonsense explanation provided by his sister. Mr. Kamon did
23 not yet have residency in The Bahamas. (Mot. at 10.) As such, he did not believe it
24 would be truthful to state that he resided there. Mr. Kamon's sister knew that he
25 purchased a home in The Bahamas, but she did not yet have the address. (*Id.*) She
26 knew Mr. Kamon had purchased a home and was planning to move there, so she
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1 responded with that location when asked where Mr. Kamon lived. The Government
2 focuses on this discrepancy to suggest malintent which simply is not there.

3 **B. Mr. Kamon's Proposed Conditions Reasonably Assure His**
4 **Attendance At Trial**

5 The Government spends many pages arguing that Mr. Kamon is a flight risk,
6 talking at length about the past. Meanwhile, it ignores the actual remedy being offered
7 to cure the Government's concerns. The surrender of Mr. Kamon's passport is not
8 acknowledged; neither is electronic monitoring. Close family serving as third-party
9 surety, with Mr. Kamon living in their home, which was suggested by the Government
10 in the Maryland hearing as being a reliable method for ensuring Mr. Kamon's
11 compliance with bond conditions (Declaration of Ali Moghaddas (ECF No. 35-1)
12 ("Moghaddas Decl.") at Ex. 1 (31:24-32:1)), is not mentioned.

13 Each of these strongly favor the granting of pre-trial release to Mr. Kamon as
14 they forcibly assure his attendance at trial. These same conditions are applied every
15 single day to countless defendants across the country. They are applied to defendants
16 who are facing criminal charges with significant penalties. They are applied to
17 defendants who exercise their constitutional rights. They are applied to defendants
18 who have previously traveled internationally. They are applied to defendants who
19 have multiple electronic devices. And they are effective in ensuring the attendance of
20 those defendants. The Government never explains why these protocols are somehow
21 insufficient here. That intentional silence is deafening—and reflects a concession that
22 the conditions are, in fact, sufficient.

23 The only thing the Government does is attempt to discredit some of the real
24 properties in the proposed bond package. First, the Government states that the proffer
25 of The Bahamas residence is improper because it alleges that it was purchased with
26 "tainted funds." (Opp. at 11.) That is, of course, the theory of the Government's
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1 untested Complaint and has not yet been proven.⁶ Second, the Government attacks
 2 one of Mr. Kamon's sureties as possibly have been involved in the alleged "scheme."
 3 (Opp. at 12.) The Government does not dispute that the surety received payment for
 4 legitimate construction work, and makes no effort to explain how monies paid for
 5 legitimate work by a third party uninvolved in the allegations set forth in the Complaint
 6 somehow taints the third party's ability to use his home to secure Mr. Kamon's
 7 appearance at trial, instead simply reaching a conclusion (without any legal support)
 8 that the surety "must" be disqualified.

9 **III. Conclusion**

10 Mr. Kamon respectfully submits that his proposed property bonds and bail
 11 conditions are more than sufficient to satisfy the Government's concerns and requests
 12 that the proposed bond package be approved by this Court.

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 14 DATED: January 5, 2023

Respectfully submitted,

15 SKADDEN, ARPS, SLATE, MEAGHER &
 16 FLOM LLP

/s/ Jack P. DiCanio

17 *Jack P. DiCanio*

18 *Attorneys for Defendant Christopher K. Kamon*

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 26 ⁶ In an effort to identify additional property to secure his commitment to fulfill his pre-
 27 trial obligations, Mr. Kamon added the Bahamas home to his bond proposal. Mr. Kamon's counsel was not aware of the Government's purported efforts to seize
 28 that property until it was first suggested in the Opposition. But regardless of those efforts, if the Court deems it necessary, Mr. Kamon is willing to post the Bahamas home as collateral to secure his conditions of pre-trial release.